



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156
801-538-7240
801-538-7315 (Fax)

April 2, 1993

MEMORANDUM

To: The Water Users of the lower Beaver River
From: Robert L. Morgan, P.E., Engineer *RLM*
Subject: River Commissioner Responsibility and Authority

At the annual distribution system meeting it was reported there were difficulties last year in distributing water to the canals on the lower end of the Beaver River. These problems involved disregarding instructions from the river commissioner and changing headgates and diversion dams set by the river commissioner.

The commissioner on the Beaver River is appointed each year by the State Engineer in accordance with Section 73-5-1 of the Utah, Code Annotated, 1953, as amended. Sections 73-5-3 and 73-1-14 of the code set forth the duties and authority of the commissioner. They state in part:

The river commissioner "shall divide, or cause to be divided, the water ... among the several appropriators entitled thereto in accordance with the right of each respectively, and shall regulate and control, or cause to be regulated and controlled, the use of such water by closing or partial closing of the head gates, ... or other controlling works of any ditch, canal, ... or other means of diversion as will prevent the waste of water or its use in excess of the quantity to which any appropriator is lawfully entitled..."

The river commissioner "may attach to such controlling works a written notice, properly dated and signed, setting forth that such controlling works have been properly regulated and are wholly under his control, and such notice shall be a legal notice as to the facts therein contained to all parties interested in the division and distribution of the water"

"Any person, who in any way unlawfully interferes with, injures, destroys or removes any dam, head gate, weir, or other appliance for the diversion, apportionment, measurement or regulation of water, or who interferes with any person authorized to apportion water while in the discharge of his duties, is guilty of a misdemeanor, and is also liable in damages to any person injured by such unlawful act."

As stated in the statute quoted above, Ron Roberts, the Beaver River Commissioner, is responsible to divide the water among the water users according to the water rights of record. In fulfilling this responsibility, Ron is authorized to change and set headgates or instruct water users to change and set headgates to assure an equitable distribution of water. If necessary, Ron may place a tag on or near the diversion dams or headgates that he has set indicating they are being regulated under the direction of the State Engineer. **Anyone who tampers with or changes diversion dams or headgates which are under regulation becomes liable for prosecution under the state statutes.**

Cooperation among water users and with the river commissioner is always important to the distribution of water, but it is especially important during dry years such as those we have experienced lately. Happily we are looking forward to a much better water supply this year, but I am still asking that the water users cooperate with each other and with the commissioner. I would hope that it would not be necessary to go beyond the request of this memorandum. I have asked the river commissioner to monitor the situation on the lower Beaver River and stay in close communication with the Division of Water Rights.

If you have any questions regarding this memorandum, please contact Gerald Stoker, Cedar City Regional Engineer, at 586-4231 or Lee Sim, Assistant State Engineer for Distribution, at 538-7380.

cc: Lee H. Sim, Assistant State Engineer for Distribution
Gerald Stoker, Cedar City Regional Engineer
John L. Mabey, Assistant Attorney General
Ron Roberts, River Commissioner

MR CLARK W SMITH
PO 787
BEAVER UT 84713

MR MARK TRUMAN
PO 49
MINERSVILLE UT 84752

MR DUANE YARDLEY
BOX 58
MILFORD UT 84751

MR HAROLD BRADSHAW
PO 748
BEAVER UT 84713

MR DALE MURDOCK
BEAVER UT 84713

MR BRUCE BROWN
475 NORTH 300 EAST
BEAVER UT 84713

MR FLOYD YARDLEY 438-2657
PO 107
BEAVER UT 84713

MR ROY & PAT YARDLEY
BOX 166
BEAVER UT 84713

MR BERNARD J WALKER
PO 644
BEAVER UT 84713

MR BRENT G BALDWIN
1275 NORTH HWY 357
BEAVER UT 84713

MR ROSS BRADSHAW
153 WEST MAIN
ADAMSVILLE UT 84713

MR STEVEN H. BRADSHAW
195 NORTH 300 WEST
BEAVER UT 84713

MR WAYNE BRADSHAW
ADAMSVILLE UT 84713

MR JACK YARDLEY
215 SOUTH 300 EAST
BEAVER UT 84713

MR VERNON A CONDIE
295 EAST 200 SOUTH
BEAVER UT 84713

MR SHELDON JESSUP
121 E MAIN
ADAMSVILLE UT 84713

MR ELMER C JOHNSON
227 WEST MAIN
ADAMSVILLE UT 84713

MR DENNIS FARNSWORTH
ADAMSVILLE UT 84713